

**Engineering**

4411 East Jones Bridge Road
Norcross, Georgia 30092
(678) 375.3000 Corporate Direct
(678) 375.3436 Fax
www.checkfree.com

Date:	12 Dec 2001
To:	RENATA HESSE, ANTITRUST DIV.
Company:	DEPT OF JUSTICE
Fax No.:	202 616 9937
No. Pages: (including this page)	4
From:	ROBERT HALLORAN
Phone:	904. 723. 5520
	904. 721. 3114 (home fax)

Notes: MS TUNNEY COMMENTS

12 December 2001

Renata Hesse
Antitrust Division
Department of Justice
Washington DC

Ms. Hesse:

I write to you as a computer professional of twenty-five years experience to comment on the proposed settlement in the Microsoft case per the Tunney Act provisions.

After being found guilty of anti-competitive behavior, the settlement as described does not seem to impose any onerous penalties on the company, nor noticeably restrict their ability to leverage their position to dominate other markets. In fact, on this date the computer trade press is trumpeting a deal between Microsoft and numerous manufacturers of DVD players to have those units support Microsoft's streaming media format in future models. I'm sure Real Networks and Apple's Quicktime division are less than thrilled with this, but they lack Microsoft's clout.

Microsoft has traditionally used 'hidden' programming features in Windows to give their own applications, such as Office, an edge over competitors' products. In fact, the original plan to split Microsoft would have broken this information pipeline between system and application programmers. Developers of third-party software packages must reverse-engineer the interfaces to and from Windows to provide compatible packages for other environments, such as the Macintosh or the increasingly popular Linux system.

Along the same line, Microsoft has used their dominant position in the office software market to pull consumers into a unending cycle of upgrades. A new version of Office emerges, with subtle differences in the format of documents created. One user at a company upgrades, which drives colleagues to follow along to be able to exchange files with one another. This has been referred to in the trade press as 'viral upgrading'. It also forces competitors in the office software market to lose time chasing the latest updates since, because of its monopoly position, any competing products must maintain Microsoft compatibility.

The proposed settlement makes some effort to open up Microsoft's protocols to the public, but loopholes in the provisions make its impact questionable. For example, the SAMBA project is an open-source, volunteer-staffed software package to provide file-and-print services to Windows desktops, using servers running on the open-source Linux operating system. To do this, they had to reverse-engineer the protocols for logging into Windows servers, remote disk mounts, etc. It would appear at first glance that the DoJ settlement would ease this problem. However, in an open letter to the development community, the Samba team leaders made these comments:

The Samba Team would welcome Microsoft documenting its proprietary server protocols. Unfortunately this isn't what the settlement stipulates. The settlement states :

"E. Starting nine months after the submission of this proposed Final Judgment to the Court, Microsoft shall make available for use by third parties, for the sole purpose of interoperating with a Windows Operating System Product, on reasonable and non-discriminatory terms (consistent with Section III.I), any Communications Protocol that is, on or after the date this Final Judgment is submitted to the Court, (i) implemented in a Windows Operating System Product installed on a client computer, and (ii) used to interoperate natively (i.e., without the addition of software code to the client or server operating system products) with Windows 2000 Server or products marketed as its successors installed on a server computer. "

Sounds good for Samba, doesn't it. However, in the "Definition of terms" section it states :

"Communications Protocol" means the set of rules for information exchange to accomplish predefined tasks between a Windows Operating System Product on a client computer and Windows 2000 Server or products marketed as its successors running on a server computer and connected via a local area network or a wide area network. These rules govern the format, semantics, timing, sequencing, and error control of messages exchanged over a network. Communications Protocol shall not include protocols used to remotely administer Windows 2000 Server and products marketed as its successors. "

If Microsoft is allowed to be the interpreter of this document, then it could be interpreted in a very broad sense to explicitly exclude the SMB/CIFS protocol and all of the Microsoft RPC calls needed by any SMB/CIFS server to adequately interoperate with Windows 2000. They would claim that these protocols are used by Windows 2000 server for remote administration and as such would not be required to be disclosed. In that case, this settlement would not help interoperability with Microsoft file serving one bit, as it would be explicitly excluded.

This hardly seems to fit the intent of the settlement. The alternative settlement proposed by the dissenting state attorneys general would appear to offer more stringent provisions to assure inter-operability between Windows and competing products. I would suggest the following provisions to keep Microsoft from squeezing out their competitors:

a) The alternative settlement proposes that Microsoft license the source code for Office to allow its adaptation ("porting") to other operating platforms. This simply spreads the problem noted above of "viral upgrades" to these other platforms. What would make more sense is to compel Microsoft to document, FULLY, all file formats used in Office, and to require a reasonable (3-6 months?) notice of changes to allow competitors time to update their products accordingly.

b) Addressing the issue above of communications protocols, Microsoft should be compelled to disclose ALL programming interfaces and protocols used between Windows

desktops and servers. This would, again, allow competitors to build compatible products for alternate platforms without the need to 'chase' changes by Microsoft. Given the current spate of security issues that have arisen with Microsoft products, this disclosure could in fact assist in "hardening" their products by allowing a wider audience to examine the interfaces for security gaps. In the current climate, this is definitely called for.

These provisions should be enforced by requiring Microsoft to release the source code for any product they fail to fully document. This documentation must exist in Microsoft's facilities for their own staff to use in development. It should be straightforward enough to make this documentation available for others to scrutinize. The plethora of "Windows Secrets" books available on the market suggest that the public and internal documentation of Windows interfaces have some differences. Given their confirmed monopoly status, it seems reasonable they should demonstrate a higher level of transparency in their business dealings.

Thank you for the opportunity to comment on these proceedings. I remain,

Sincerely,

A handwritten signature in black ink, appearing to read "Robert K. Halloran III", followed by a large, stylized circular flourish.

Robert K Halloran III
892 Trinidad Rd
Jacksonville FL 32216

Phone 904-723-5520
e-mail rkh@mediaone.net